IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 499 OF 2007

Vijay Parshuram Rasalkar .... Petitioner

versus

Kalyan Municipal Corporation & anr..... Respondent.

Shri J.M.Pendse for the petitioner
Shri A.S.Rao for respondent 1 and 2.

CORAM; A.P. DESHPANDE, J.
DATED; 26TH JUNE, 2007

P.C.;

1. The petitioner was appointed to a class IV post, but has worked in a clerical post. On account of the petitioner being made to work in a promotional post, he filed a complaint before the Industrial court claiming permanency in the post of clerk. The Industrial court has rejected the claim of the petitioner to the promotional post by observing that the petitioner was appointed as mazdoor and sometime was given the work of metre reader. The petitioner was admittedly, not regularly promoted for working in the promotional post and the petitioner was not granted promotion by following prescribed procedure. The Industrial court has rejected the petitioner's claim for permanency in the promotional post. However, it has granted monetary benefit to the

petitioner by directing the respondent to pay the difference of wages in the post of clerk and that of mazdoor from 1-1-1991. A further direction was issued to the respondent employer to consider the petitioner in the post of clerk if he is otherwise eligible in case of availability of such a post. After passing of the said order by the Industrial court, the respondent communicated to the petitioner that the petitioner is not eligible for the post of clerk. The communication intimates the petitioner that the qualification prescribed for the post of clerk is passing HSC extinction so also MH-CET examination of the State of Maharashtra. The petitioner has only passed 10th standard. On being intimated that the petitioner is not eligible for the post of clerk, the petitioner has filed a complaint before the Industrial court bearing complaint ULP NO. 259/06. The question of eligibility of the petitioner for being appointed to the post of clerk is subject matter of decision in complaint ULP No.259/06. There is no finding in that regard, recorded in the impugned order. Perused the impugned order. It does not call for any interference. Hence writ petition is summarily dismissed.

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